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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,540	10/27/2003	Kanji Tanaka	38195.54	3652
54067	7590	12/12/2006		
OKADA C/O KEATING & BENNETT, LLP 8180 GREENSBORO DRIVE SUITE 850 MCLEAN, VA 22102			EXAMINER GATES, ERIC ANDREW	
			ART UNIT 3722	PAPER NUMBER

DATE MAILED: 12/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/694,540	TANAKA ET AL.	
	Examiner	Art Unit	
	Eric A. Gates	3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to Applicant's amendment filed on 21 September 2006.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lucchesi (U.S. Patent 2,715,906).

Regarding claim 1, Lucchesi discloses a binder 1 comprising: binding rings 4b/5b each including first and second binding ring halves having latching portions 4d/5d provided at ends thereof which engage one another in a closed state (see figure 1); a holding member 19/20 having a length that allows said binding rings to be arranged with a spacing therebetween; an operating member 3 on a surface of which said first and second binding ring halves are anchored at bases 4c/5c thereof with spacing therebetween, and which is movably fixed to an inner side of said holding member 19/20 such that the first and second binding ring halves are fixed to the holding member (through contact with operating member 3); the operating member 3 including a pair of operating pieces 4/5, one of which 5 moves within the holding member in a longitudinal

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direction of the holding member, and a pivot shaft portion 9 arranged along abutting edges of said pair of operating pieces; one of the bases 4c of each of the first and second binding ring halves being fixed to one of said operating pieces 4 and the other of the bases 5c being fixed to the other operating piece 5; the holding member 19/20 includes a bound article mounting portion 17 and holding walls (vertical walls at the edges of member 17) arranged longitudinally at edges of the bound article mounting portion, the operating member 3 and an opening/closing member 15 (spring 15 functions as an opening/closing member by urging operating piece 5 away from operating piece 4 longitudinally, and as such keeps the pieces apart longitudinally when open and also locks them together tightly with the assistance of the flanged ends 4f/5f when closed) are accommodated in a space defined by the holding walls and the bound article mounting portion (the space directly above the bound article mounting portion and between the holding walls); the opening/closing member 15 is arranged within the space of the holding member 17 so as to bias the pair of operating pieces 4/5 in opposite directions along a length of the holding member, and so as to hold the pair of operating pieces 3 in an inverse V shape arrangement (the inverse V shape arrangement may be seen when the viewer is upside down and the binder is in the position seen in figure 2, as there is nothing in the claims that prevents the viewer from being upside down when viewing the binder; additionally, the opening/closing member 15 will hold the operating pieces apart as shown in figure 2 such that they form the shape shown due to the force of gravity unless acted upon by some other force) such that the abutting edges (top edges in figure 1) of each of the pair of operating pieces 3

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are disposed in close proximity to an inner surface of the bound article mounting portion 17 of the holding member 3 (the abutting edges are closer to the bound article mounting portion 17 when the operating pieces are open as seen in figure 2, and since there is no limitation provided on what is meant by "close proximity" in the claim and no criticality provided in the disclosure, the binder of Lucchesi is seen to meet this limitation); when the latching portions of the first and second binding ring halves are engaged with each other, the pair of operating pieces are arranged so as to be spaced further from the inner surface of the bound article mounting portion than when the pair of operating pieces are held in an inverse V shape arrangement (the bottom outer edges of the operating pieces are closer to the bound article mounting portion when in the V shape, as seen in figures 1 and 2); and when the latching portions 4d/5d of the first and second binding ring halves are disengaged by fingers of a user, the opening/closing member 15 exerts a restoring force (in the longitudinal direction) on the pair of operating pieces 4/5 such the operating pieces are biased in the opposite directions (longitudinally) and the first and second binding ring halves are separated from each other.

Lucchesi does not disclose that the holding member includes through holes arranged so that each of the first and second binder ring halves loosely passes through a respective one of the through holes. However, the Examiner takes Official Notice that it is well known in the binder art to use loose holes in the shape of the rings through the cover of a binder for the purpose of allowing the binding rings to extend through and allow the binder cover to close more tightly. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to

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have added loose through holes to one side of the holding member of Lucchesi in order to allow the binder to close more fully.

4. Regarding claim 2, the modified invention of Lucchesi discloses wherein substantially cylindrical slide portions 12/13/14 are provided along the abutting edge of one of said operating pieces 5 at spaced intervals and cylindrical slide portions 7/8 are disposed along the abutting edge of the other operating piece 4 so as to be loosely fitted between said substantially cylindrical slide portions, a pivot shaft 9 being arranged to pass through the substantially cylindrical slide portions.

5. Regarding claim 3, the modified invention of Lucchesi discloses wherein the opening/closing member 15 is provided in a gap defined between the substantially cylindrical slide portions of the operating pieces (see figure 4).

6. Regarding claim 4, the modified invention of Lucchesi discloses wherein a gap is defined between the substantially cylindrical slide portions of the operating pieces so that the opening/closing member 15 is provided in the gap (see figure 4); and an inner end of the cylindrical slide portion 7 of one of the operating pieces 4 faces said gap, and, in opposition to the inner end, an inner end of the substantially cylindrical slide portion 14 of the other operating piece 5 faces said gap.

7. Regarding claim 5, the modified invention of Lucchesi discloses wherein a first pivot shaft piece 12 is disposed at the abutting edge of one of the operating pieces 5, a second pivot shaft piece 7 is disposed at the abutting edge of the other operating piece 4 to be overlapped with the first pivot shaft piece, and a pivot shaft 9 is passed between said first and second pivot shaft pieces.

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8. Regarding claim 6, the modified invention of Lucchesi discloses wherein a gap is disposed at the abutting edges of the operating pieces 4/5 so that the opening/closing member 15 is provided in the gap (gap is area between pieces 4/5 as seen in figure 4), a gap-side inner end of one of the operating pieces faces the gap, and, in opposition to the gap-side inner end, a gap-side inner end of the other operating piece faces the gap.

9. Regarding claim 7, the modified invention of Lucchesi discloses wherein said opening/closing member 15 includes an elastic member 15, and said elastic member is provided between a pair of operating pieces 4/5 constituting said operating member 3 for moving the pair of operating pieces in the opposite directions (longitudinally), respectively, and for elastically urging the pair of operating pieces 4/5 in the directions to hold the binding rings 4b/5b in the opened state.

10. Regarding claim 8, the modified invention of Lucchesi discloses wherein the elastic member 15 includes a coil spring and the coil spring is wound around the pivot shaft 9 of the operating member 3, and arranged in contact with the substantially cylindrical slide portion 14 of one of the operating pieces 5 of the operating member and with the substantially cylindrical slide portion 7 of the other operating piece such that one end of the coil spring 15 presses one of the operating pieces 4 of the operating member 3, and the other end pressing the other operating piece 5 (see figure 4).

11. Regarding claim 9, the modified invention of Lucchesi discloses wherein the elastic member 15 includes a coil spring 15, and the coil spring is wound around the pivot shaft portion 9 and is arranged in contact with a gap-side inner end of one of the operating pieces 4 and with a gap-side inner end of the other operating piece 5 such

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that one end of the coil spring presses one of the operating pieces 4 of the operating member, and the other end pressing the other operating piece 5 (see figure 4).

Allowable Subject Matter

12. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

13. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

14. For the reasons as set forth above, the rejections are maintained.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric A. Gates whose telephone number is 571-272-5498. The examiner can normally be reached on Monday-Thursday 7:45-6:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



EAG
8 December 2006



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SUPERVISORY PATENT EXAMINER
EXAMINER